



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes ET, FF

Introduction

This hearing dealt with an application by the landlord for an order ending the tenancy early, an order of possession and recovery of the filing fee. The landlord participated in the conference call hearing but the tenant did not. The landlord presented evidence that the tenant was served with the application for dispute resolution and notice of hearing in person with a witness. I found that the tenant had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence.

Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

Background and Evidence

The landlord testified that the tenant is a danger to the landlord and has damaged the landlord's property and adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

The landlord stated that on May 23, 2011 the tenant was very intoxicated, started to cook some food, passed out and started a fire in the rental unit. The landlord stated that the police attended the scene as well as the fire department. The rental unit suffered smoke damage from the fire started by the tenant.

The landlord stated that the tenant was removed from the property on May 23, 2011 and taken to the hospital for observation. When the tenant returned to the rental unit on May 24, 2011 he again got very intoxicated and started to repeatedly call the police who ultimately removed the tenant from the rental unit. During one of the trips to the rental unit the police had the tenant agree that he would not use the stove between the hours of 9PM to 6AM to avoid the tenant passing out and starting a fire again. The tenant agreed to this but the agreement was short lived as when the tenant became extremely intoxicated he demanded to use the stove.

The landlord stated that his family and the other residents on the property are extremely fearful that the tenant will start another fire during the night as the tenant gets extremely intoxicated on a daily basis. The landlord stated that the tenant does not appear to work, stays up all night drinking and during the hours of 11PM and 6AM makes excessive amounts of noise that directly disturbs the other residents.

The landlord stated that the tenant advised the landlord twice that he would vacate the rental unit but has not done so. The tenant has not paid the June 2011 rent.

Analysis

Section 56 of the Act states that a landlord may request an order ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given for cause under Section 47. Upon receipt of such an application, the director may make an order specifying an earlier date on which a tenancy ends and the effective date of an order of possession for the rental unit only if the director is satisfied that certain conditions exist. These conditions are listed in Section 56(2) of the Act.

In the present case the landlord has applied for an order ending the tenancy early on the basis that the tenant has damaged the landlord's property, adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord and that it would be unfair to the other occupants to wait for a one month notice to take effect.

I am satisfied based on the evidence before me that the landlord has proved its case.

The landlord is entitled to recovery of the \$50.00 filing fee.

Conclusion

Based on all of the above, I hereby grant the landlord an **Order of Possession**, effective **2 days** after service of the Order upon the tenant. This Order must be served on the tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The landlord is also entitled to recovery of the \$50.00 filing fee. I order the landlord pursuant to s. 38(4) of the Act to keep \$50.00 of the tenant's security deposit in full satisfaction of the claim.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: June 2, 2011.

Residential Tenancy Branch